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James Dunn, Columnist on Foreign Affairs and Human Rights
Tel. & Fax: 044-743484 13 Percy Davis Drive, Moruya NSW 2537

ATTENTION: PAT WALSH, ACFOA HUMAN RIGHTS UNIT

Herewith a copy of my letter to Senator Evans:-

24 December 1990

Senator Gareth Evans
Minister for Foreign Affairs and Trade
Parliament House
Canberra, ACT 2600

Dear Senator Evans,

For some time I have wanted to write to you about our Timor policy, and I decided to take this step in connection with your answer to a question from Senator Jo Valentine on the subject of Indonesia's invasion of East Timor in December 1975 (Hansard pages 5856-5858, 18 December 1990).

While I have supported your stand in relation to Kuwait in my weekly columns, I am dismayed and disappointed that you find it so difficult to identify similarities with what happened to East Timor in 1975, and in the nightmarish years that followed. In particular, as one who was in East Timor for some time prior to the invasion of Dili, and who later testified both to a Congressional committee and to the UNGA Fourth Committee, I was rather taken aback at the "distinctions" referred to in your reply.

The fact that the U.N. imposed no economic sanctions against Indonesia has nothing at all to do with the seriousness of that act of aggression. It was to do with the different international circumstances. Timor deserved the same level of international reaction but, for mostly the wrong reasons, simply didn't get it. Looking at these situations objectively there are no grounds whatever for suggesting that Indonesia's violation was any less serious than Saddam Hussein's seizure of Kuwait. Indeed, as you must surely be aware, Australia played a rather shameful part in ensuring that the international response in 1975-76 was substantially weaker.

This country was at that time in a strong position to tilt the response in a more positive direction, but chose the opposite path. For quite shameful reasons, mostly to do with short-sighted and at best dubious interpretations of national interest, the rights of the Timorese were cynically disregarded.

You suggest that the fact that Kuwait was a "sovereign" country added to the seriousness of the aggression against it. I dispute such a suggestion, which is not consistent with, for example, UN Resolution 3314 (XXIX) of 14 December 1974 on the Definition of Aggression which stresses, in Article 7, that "*...Nothing in this Definition ... could in any way prejudice the right to self determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right....*" Indeed, the opposite could be argued. An unprovoked act of aggression against a vulnerable people in a state of decolonisation is even more repugnant than aggression against a so-called

sovereign state. But the central issue must be the notion of aggression by a large, powerful nation against a small, militarily-weak country.

Your refer to the "civil conflict waging between three rival groups, two of which.... favoured integration with Indonesia". This, I have to say, is a nonsense. In fact *both* parties to the so-called civil war (which in fact was engineered by the Indonesian Intelligence operation, *Operasi Komodo*) favoured independence. The only group opting for integration was a tiny splinter party called Apodeti, which would not have existed had it not been for financial backing from Jakarta. And this civil war lasted only three weeks. There was no civil war nor any other insurrection in the almost three month period prior to the invasion of Dili. Members of the aid team I led to Timor at that time, and the ICRC mission, could attest to that. Indeed we moved more freely about Timor than has been the case for foreigners until the past twelve months or so.

I was also taken aback at your suggestion that the timing of Australia's acceptance of Timor's integration was acceptable. Are you really aware that when the Fraser Government undertook its de facto recognition in January 1978 ABRI troops were in the middle of one of their bloodiest and most brutal campaigns, and it was a year which claimed about 40,000 lives (according to information from the present Governor, whose family I have known well for many years)! In the circumstances, it was a heartless and immoral decision, which did nothing for the Timorese people, and a lot of damage to Australia's reputation.

In the end it was US pressures and not our compliance that led the Indonesians to allow some access to the territory. But to return to the question of when we should have accepted the status quo, our decision should have been based on the principle of self-determination, and not on the exigencies of the Australian-Indonesian relationship. We could at least have held out for a clear expression by the Timorese that integration was acceptable to them. It is a fair point of international law that this right to self-determination continues to exist until it has been expressed in some genuine way. It follows that to recognise the incorporation of a people in disregard of this principle merely serves to encourage an act of aggression.

I appreciate that this issue has been a very difficult one for you to deal with, but I am concerned at the way your Government persists in explaining your stand in terms which are totally incompatible - that we accept East Timor as part of Indonesia but regret the way the territory was incorporated. If we agree that East Timor was raped, then we cannot advocate acceptance if its forced integration. What I suggested to Bill Hayden was that we recognise Indonesia as the successor colonial ruler, with the implicit obligation to allow for an internationally-supervised act of self-determination, but I fear that we have taken the easy way out, which will not serve us well in the long run.

Our policy, it seems, is based on falsehoods and false

assumptions, and not least the assumption that the Timorese have forgiven the Indonesians for the oppression and outrages between 1975 and 1982. Why should they? No Indonesian military officer was ever brought to justice, and the rulers remain virtually the same. Moreover, human rights violations still occur from time to time. It really disturbs me when departmental spokesmen play down such violations, and trivialise the suffering endured by these people in the past fifteen years.

And because I respect and applaud your personal initiative in raising the profile of human rights in our foreign policy I cannot believe that you are really happy with our approach to the Timor problem, which you would have inherited. And, as you must really be aware, contrary to your answer to Senator Valentine, international interest in this affair is increasing. In fact I have just accepted invitations to speak to conferences at Yale Law School, and at a seminar arranged by the American Council of Learned Societies and the Social Science Research Council in Washington in the first half of 1991. The profile of Timor has indisputably been raised by the seizure of Kuwait, and by the easing of the bonds on the "captive nations" in Eastern Europe.

It is such a pity that Australia has opted out of the search for a more just settlement of the Timor problem. Our policy of accommodation never fails to disappoint me, and to try and explain that it enjoys the support of a caring minister who has given this country an activist role in the field of human rights fills me with a mixture of sorrow, discomfort and frustration.

Yours sincerely

Jim Dunn